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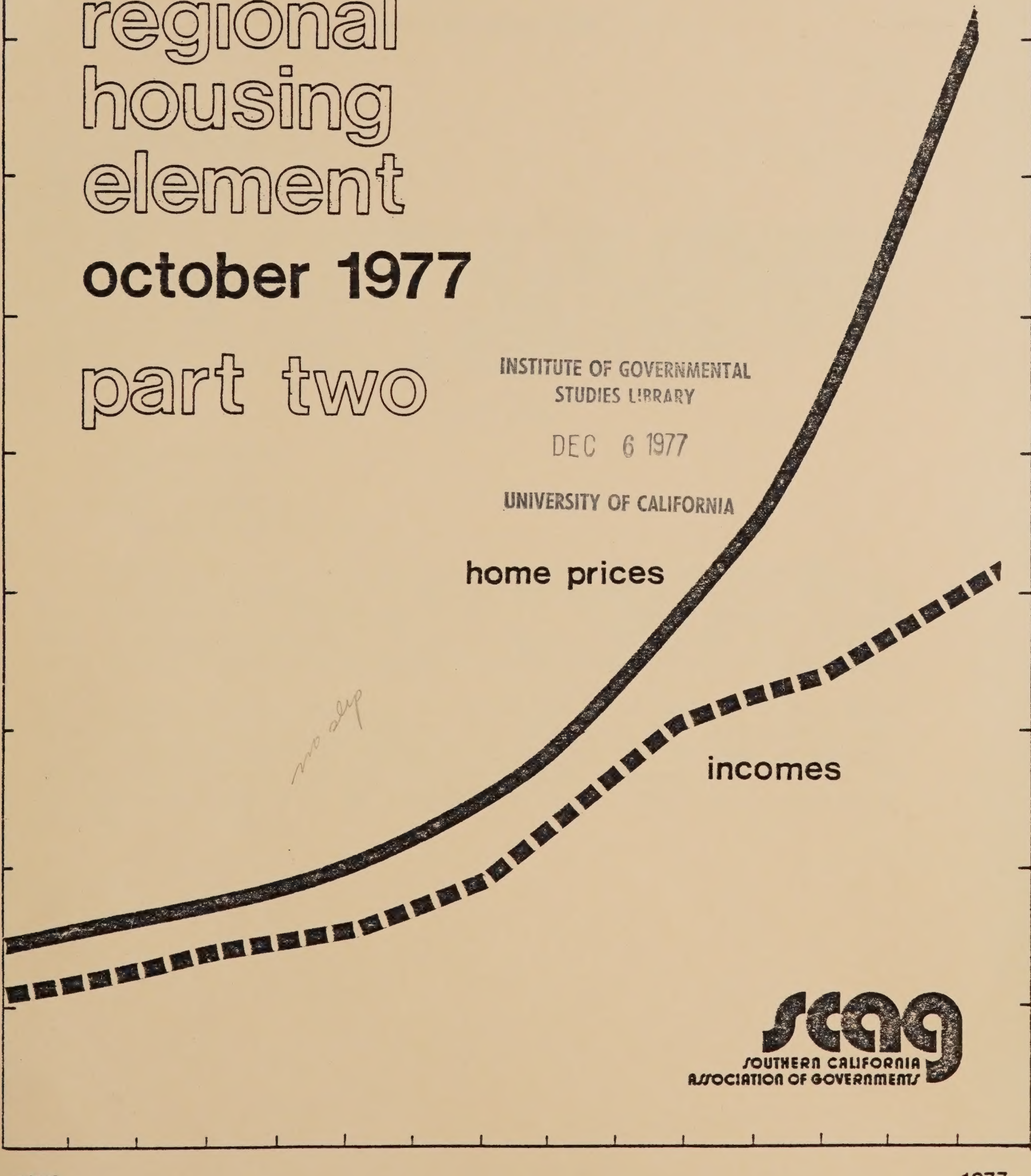

SCAG
SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS

REGIONAL HOUSING ELEMENT

IMPLEMENTATION PLAN

LOCAL PROGRAMS COMPONENT

Introduction

This component of the Implementation Plan presents specific programs and activities which are available to local governments to address housing needs. Some of the programs discussed are now being used in virtually every jurisdiction in the region; some are simply a different type of use of functions in which localities are already engaged; some are programs which are not yet in use anywhere in the SCAG region but have been used successfully in other parts of the state or country.

The programs are divided into four basic types:

- Federally Funded
- State Funded
- Locally Funded
- Regulation and Taxation

They include direct housing assistance programs, regulatory activities, use of taxation to encourage needed housing development or rehabilitation, and provision of support services and facilities. The list of programs included here is not comprehensive. It does, however, include the major housing tools available today, and it presents a wide variety of housing activities.

The objective of this component is to provide local agencies with a brief description of the housing programs available to them. Each section describes a program, and gives the legislative authority and legal or administrative preconditions for its use. Each also discusses the benefits and problems associated with the program and various localities' experiences with it.

INDEX OF LOCAL PROGRAMS

Federally Funded

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   a. Community Development Commission
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TITLE

Housing and Community Development Act (HCDA)

DESCRIPTION

The HCDA is essentially a special revenue sharing provision of the Federal law. Its broad intent is the development of viable urban communities through the provision of decent housing, suitable living environments, and expanded opportunities, principally for persons of low and moderate income.

Funds are provided annually to local governments with populations of 50,000 or more through block grants, with amounts determined by formula. Cities with populations under 50,000 are included in the program under the "Urban Counties" funding formula. The program allows local determination of needs, programs, and their relative priorities toward meeting community-development objectives.

The regulations direct participating jurisdictions to develop each year an application which includes a local Housing Assistance Plan (HAP). The HAP identifies the condition of the current housing stock, the number of lower-income and minority households, and addresses the needs of these households by setting one- and three-year goals. Cities must also specify locations of new construction and rehabilitation projects. In effect, the HAP is a basis for developing a comprehensive approach to the use of Community Development Block Grant Funding.

Eligible activities under Block Grant funding cover a broad scope:

- Acquisition of real property
- Historic preservation and urban beautification
- Provision of certain public works and facilities
- Clearance and demolition of buildings
- Special projects to remove architectural barriers to elderly and handicapped persons
- Relocation payments
- Community Development planning
- Payment of the cost of completing Urban Renewal Projects
- Provision of public services not otherwise available
- Acquisition, construction, rehabilitation or installation of certain public works, public facilities and related improvements.

Although new construction of residential units is disallowed by the legislation, activities to facilitate new construction are clearly permissible. Further, direct involvement in residential rehabilitation programming, with wide latitude for program design, is one of the CDBG's major strengths. The several types of rehabilitation loan programs generally accepted as feasible are discussed below.

LEGISLATIVE AUTHORITY

Title I, Housing and Community Development Act of 1974, P.L. 93-383.

PRECONDITION FOR USE

The essential condition for obtaining Block Grant funds is an application to HUD. Included in this application is a Housing Assistance Plan. Specific estimates of units requiring rehabilitation are designated in the HAP, along with goals for new construction and rehabilitation.

COMMENTS

Although the Community Development Block Grant Program provides funds for a variety of local needs, one of the more difficult applications has proven to be in one of the most critical areas of need, residential rehabilitation.

Examples of Rehabilitation Loan Programs established through use of CDBG Funds are discussed below.*

1. Loan-by-Loan Relending Model

This model makes rehabilitation money available at low interest rates by eliminating the cost of funds to the private lender borrowing money to lend. Such funds are provided by the city, on a case by case basis, in the full principal amount. The bank then relends the City's money in accordance with a previously agreed-upon standard. Most recent experience reveals that a rate of 3.75% is being charged for these loans. This rate has been calculated to equal the administrative and other direct costs involved with making the loan, plus a profit margin.

The basic model assumes that the City provides the full principal amount. Under such conditions there is no risk to the bank servicing the loan. Variations on the model involve some percentage of the principal being provided by the City while the bank provides the balance. The interest to the borrower will increase in proportion to the cost of the additional funds to the bank.

The following advantages and disadvantages are attributed to the loan-by-loan relending model:

Advantages - Loans are initiated by a simple transfer of funds by the City to the bank, all of which principal is returned to the City upon repayment of the loan. Provides low-interest-rate loans, with bank handling all counseling to delinquent borrowers. City makes decisions on foreclosure or re-negotiation of loan terms.

Disadvantages - This model essentially does not generate additional funds; it also exposes the City for the full value of the loan.

2. Compensating Balance Deposit Model

In this model, the cost of funds to the bank is also reduced in exchange for below-market loan terms. This form involves a deposit of CDBG funds with a private lender, and subsequent transfer of the funds among various accounts.

* Excerpted from "Local Housing Rehabilitation Strategies", HUD, Region 9.

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In the basic form, this model calls for the City to draw down an amount of funds and to place them in certificates of deposit. The amount of the deposit is based on an estimate of annual demand for loans and serves to commit the city and the bank to the program. The role of the bank, in turn, is to modify some of its normal lending standards in favor of a more liberal approach. For the City funds remaining in the CD account, the prevailing interest rate is paid. As loans are subsequently arranged by the city and made by the bank, the funds on deposit are transferred into two other accounts: (1) 10% of the loan value is placed in a Loss Reserve account which can be drawn on by the bank in the event of default; and (2) a specified percentage of the loan value is placed in a Non-Interest Bearing account which serves to write down the interest rate. The lower the interest rate, the larger the percentage of the loan that is deposited in this latter account.*

The following chart shows the percentage of deposits made in these accounts according to the interest rate available for rehabilitation loans:

INTEREST RATE	NON-INTEREST BEARING	LOSS RESERVE	LEVERAGE
11-16%	--	--	(market)
10%	10%	10%	5 to 1
9%	20%	"	3.3 to 1
8%	30%	"	2.5 to 1
7%	40%	"	2 to 1
6%	50%	"	1.7 to 1
5%	60%	"	1.4 to 1
4%	80%	"	1.1 to 1
3.75%	90%	"	1 to 1

As the chart shows, the leveraging effect of this model diminishes quickly the more the interest subsidy reduces the market rate. For 6% loans, for example, the CDBG funds provide less than 2-to-1 leverage of privately supported rehabilitation loans that return market interest to the bank. The schedule bottoms out at 3.75% rate, which represents the minimum cost of handling funds, processing the paper, and providing a profit margin to the financial institution

* The primary position of the lender means that it retains the right and option to initiate foreclosure proceedings. The city may, however, reinstate the loan, under different terms if necessary, to protect its position.

The private lender owns the deed of trust that is attached to the property for the term of the loan, and it is secured by the 10% reserve account. The loan fund revolves as repayments are made, or the CDBG funds may be returned by the bank to the city for other uses.

Advantages: The bank owns the paper (however, it will return to the city in event of foreclosure); the city is exposed for only 10% of the total loans outstanding; the fund eventually revolves; the bank is committed for a fixed amount of loan funds, the city receives interest from its CD deposit to enlarge the loan pool.

Disadvantages: The effective leverage is modest; the revolution of the account takes as long as the average term of the loans; the initial deposit cannot be used for other purposes if the program is slow starting and if the bank commitment is to be preserved.

Examples of Reference Programs: Anaheim, Modesto, San Francisco (Model Cities)

3. The Interest Subsidy Write-Down Model

This model is based on payment of CDBG funds to a private lender to write-down the interest rate. In this case, the market rate is set, and the city simply pays the bank the difference between the rate and the desired below-market rate for the individual loan. This model has been designed to complement FHA Title I insurance, obviating the need for a loss reserve. Since Title I insures only 90% of the obligation, the bank remains exposed for 10% of the loan value. There is no residual exposure to the city.

The interest subsidy is paid by the city as each loan is made. For example, if the city arranges for a $5,000 loan at 6% for 12 years, and the market rate has been set at 11%, the city pays $1,107 to the lender. This payment equals the difference between the cost of the loan at market rates and that which the program offers. Not counting the 6% cost of funds to the borrower, the effective leverage is nearly five-to-one. Greater leverage produces higher interest rates, and vice versa. Inflation factors associated with the reuse of funds in revolving accounts do not apply to this model.

A deed of trust is required only for loans over $7,500, the cost of which is assumed by the bank. Further, the bank agrees to modify its lending standards, as described in the Compensating Balance Deposit Model. The city has the flexibility to set the interest rate at the level individual borrowers can afford.

Advantages: The transaction is simple; the bank owns the paper, which will go to HUD in event of foreclosure; a large number of loans can be made early for high impact; the volume will stay high as long as the program goes on; interest rates vary with borrowers' ability to repay.

Disadvantages: The payments are one-way, with no reuse feature; the loans must be made according to FHA Title I Standards and requirements.

Examples of Reference Programs: Hayward, Burbank, Inglewood, San Bernardino County.

4. The Shared Risk Model

The Shared Risk Model involves the use of CDBG funds on a pre-loan basis, the amount depending on the arrangement with the private lender. The cost of funds to the lender is therefore reduced in proportion to the city's participation in each loan.

Under this model, the city will arrange for a loan and then deposit some percentage of the loan amount with the lender. The lender, in turn, reduces the interest charged. Although the loan is booked both by the city and the financial institution, the private lender holds a priority position in event of default.* The paper is generally secured by a second deed of trust, and the lender is protected against loss by the amount of the city's payment.

Under a 60%-40% shared risk arrangement, a $5,000 loan at 6% interest requires the city to buy $2,000 of the loan from the financial institution. The CDBG funds used by the city for this purchase are held on account by the lender, to be credited to the city as the loan is repaid. This example involves a three-to-two leverage of CDBG funds. Another program in Region IX negotiated a five-to-one leverage arrangement for loans at 7% interest.

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* The primary position of the lender means that it retains the right and option to initiate foreclosure proceedings. The city, however, may reinstate the loan, under different terms if necessary, to protect its position.

Advantages: The bank (or Savings & Loan) owns the paper, the risk and leverage effect can be expressed differently according to individual loans; the funds eventually revolve, though the effect of their reuse will be reduced by inflation; deposits are made on an as-needed basis.

Disadvantages: The city is exposed for a significant portion of individual loans; the disposition of property on foreclosure requires negotiation; the funds will revolve only as fast as the average term of the loan; administrative costs for the city tend to be high because loans are jointly booked.

Examples of Reference Programs: Los Angeles (city); Eureka

5. Tax-Exempt Borrowing Model

The Tax-Exempt Borrowing Model relies on a lump sum deposit of CDBG funds with a private lender, which lends a larger amount of funds to an agency of the city for rehabilitation loan purposes. The city's deposit, generally set at 20% of the financial institution's loan commitment, is held on account by the bank and is used to insure against defaults.*

Since the bank's loan of rehabilitation funds is to a city agency, the proceeds (interest earned) are tax-exempt to the lender. The loan can therefore be made at low interest to the city -- usually from 5-1/2% to 6%, depending on the amount. A point is generally added to cover loan processing costs, and rehabilitation loans are subsequently made by the city at 6-1/2% to 7%.

Though the bank services the loan, the paper in this model is owned by the city, which is fully exposed to defaults. The primary role of the private lender is to provide funds, at a below-market rate, from which rehabilitation loans are made. An alternative to the bank's loan of funds to the city agency involves the sale of bonds for the same purpose. The effective leverage of CDBG funds in this model is five-to-one.

Advantages: Significant leverage, producing moderately low-interest rehabilitation loans; the city's deposit will return after the loan has been retired; the bank services the rehabilitation loans.

Disadvantages: The city owns the paper and will be indirectly involved with foreclosure preceedings; debt-financing is not always attractive to localities; the city is obligated to pay interest on the bank's loan if the rehabilitation loans are slow in being processed.

* The deposit serves to secure the bank's commitment and to provide liquidity in the event of slow payments by individual borrowers, as well as to insure against defaults. The amount is negotiable and tends to be lower with more experienced cities, e.g., 10% of the total loan commitment.

Example of Reference Programs: San Francisco (Redevelopment Agency), Cudahy, Buena Park.

Additionally, a rehabilitation program involving both grants and low-interest loans can be developed through the CDBG. As an example, the Community Development Department of the City of San Bernardino offers qualifying homeowners grants up to $3,500 and loans at 3% interest.

Land and Improvements and other Housing Uses of CDBG

Another important use of Block Grant funds is to provide land or off-site improvements for assisted housing development or the development of other below market housing. Some jurisdictions have also used the Block Grants to develop housing incentives programs for development of low- and moderate-income housing, to provide emergency housing, to perform housing related services, to do housing studies and surveys, or to fund affirmative and fair housing programs or agencies. All of these activities are discussed in greater detail in the following sections of the local component and examples are available in the reports SCAG Review of First (Second) Year Title I Housing and Community Development Block Grant Applications. They are noted here, because the Block Grant is a major source of funding available to all localities for the types of activities listed here and discussed below.

PROGRAM 2

TITLE

Rent Assistance Programs
  a. Traditional Housing
  b. Section 8

a. Traditional Housing (Previously known as Conventional Housing and/or "Public Housing")

DESCRIPTION

The traditional housing program provides funds to Local Housing Authoirities for planning, developing and operating housing for lower-income households. HUD provides funds through: 1) preliminary loans for planning; and 2) and an Annual Contributions Contract utilized to pay off the Housing Authority's bonds and notes, assure low rents and maintain adequate services and reserve funds.

HUD issues a Notice of Funding Availability (NOFA, i.e., request for bids) for Traditional Housing. Housing Authorities may submit bids in response to the NOFA, for Program Reservation of funds. The Housing Authority bid must include: 1) an executed copy of the Housing Authority's Cooperation Agreement with a local government; 2) basic application indicating the number of units planned, preliminary loan desired, and the expected amount of annual contributions being sought for the project; 3) supporting data including conformance with local and regional housing plans, census data on population and housing, and expected relocation needs; and 4) the Housing Authority's indirect loan contribution. This contribution is in the form of a tax exemption -- instead of paying taxes on the property as if it were privately owned, the local governing body agrees to accept a Payment In Lieu of Taxes (PILOT), generally at the rate of 10% of total rent minus utilities and maintenance costs (i.e., "shelter rents").

Approval of the Housing Authority's application means issuance by HUD of a Program Reservation, indicating HUD's intent, subject to further fulfillment of all requirements, to provide a preliminary loan and/or enter into a Contributions Contract. In response, Housing Authorities may develop Traditional Housing through either of two methods: 1) Turnkey, or 2) Conventional..

Traditional - "Turnkey" New Construction Development

Using the "Turnkey" method, the Housing Authority has a relationship with the builder similar to that of an individual who contracts to purchase a custom built home. Once a HUD Program Reservation is obtained the Housing Authority prepares bid invitations to developers setting forth the general location and description of the project being contemplated. Developers submit proposals indicating the site they can provide, a general description of the buildings, and an itemized budget.

With HUD's assistance and approval, the Housing Authority selects a developer. In working with the developer on final plans and through actual construction, the Housing Authority makes use of its own appraisers, cost estimators, and inspecting architect. Upon approval of the developer's final proposal and agreement of the final price at which the Housing Authority will purchase the completed development from the developer, a Contract of Sale is executed and construction can begin.

Traditional - "Conventional" Method for New Construction

Using the "Conventional" method, the Housing Authority acts as its own developer. The Housing Authority may also act as its own construction firm or may request bids for such. Financing of Conventional Traditional developments occurs through the Housing Authority's sale of short term notes and issuance of bonds. These bonds are exempt from all Federal income taxes and are secured by HUD's commitment to make annual contributions sufficient to cover their debt service.

Traditional - Existing Housing

Housing Authorities may purchase homes or apartments from private owners. Following purchase, the housing authority may rent the units to lower income families. These units may qualify for Section 8 Housing Assistance Payments depending upon both the availability of such funds and the eligibility of the tenants.

LEGAL AUTHORITY

United States Housing Act of 1937 (P.L. 75-412) as amended.

PRECONDITIONS FOR USE

Passage of Article 34 referendum.

b. Section 8 -- Housing Assistance Payments Program

DESCRIPTION

The Section 8 program provides a rent subsidy for lower-income families to help them afford decent housing -- existing, newly built, or substantially rehabilitated -- in the private market.

Program eligibility depends on family size and income. Lower-income families are required to pay not less than 15% nor more than 25% of their gross incomes for rent. At least 30% of the assisted units are to be initially occupied by very-low-income families; to the extent possible, this level is required to be maintained in subsequent leasing. A Federal Subsidy is paid equal to the difference between contract rent (including utilities) -- based on HUD-established Fair Market Rent -- and the amount payable by an eligible family.

Section 8 is intended to avoid concentration of lower-income persons by permitting them freedom of choice in housing locations. The program is designed to encourage the mixing of socio-economic groups by placing a processing priority on new-built projects that are to be only partially subsidized.

Section 8 regulations require that the area offices use HAPs to determine an area's program mix -- distribution of funding to new construction, substantial rehabilitation, existing, and elderly/non-elderly housing.

LEGAL AUTHORITY

The Legal Authority for the program is Section 8, U.S. Housing Act of 1937, as amended (P.L. 93-383).

PRECONDITION FOR USE

Under Section 8, HUD makes payments pursuant to Annual Contribution Contracts (ACC) to Public Housing Agencies authorized to engage or assist in developing or operating housing for lower-income families; HUD may also contract directly with owners who agree to lease housing units to eligible families. Owners are responsible for operating and maintaining these units.

COMMENTS

Section 8 - Construction and Substantial Rehabilitation

HUD regulations provide that the New Construction program is to be used in communities where the existing housing inventory is inadequate. The substantial rehabilitation program is to be used to upgrade the existing housing stock. When there is need for new construction, HUD area offices are required to publish in a local newspaper(s) a "Notification of Fund Availability", inviting proposals from developers. Developers submit preliminary proposals to HUD, and HUD then asks the developer with the best preliminary proposal to submit a final proposal.

After the final proposal is approved and the developer submits an architect's drawing and certification, the developer and HUD enter into a housing assistance payments agreement, at which time construction or rehabilitation begins. At completion, HUD and the owner execute a Housing Assistance Payments Contract. The term of the assistance payments contract is limited to 30 years when the developer is a private owner and 40 years when the developer is a Public Housing Agency.

The developer (owner) can be any private person or entity, including a cooperative, or a PHA. The developer can use almost any type of available financing, including conventional financing, HUD mortgage insurance programs [221d(3), 221d-4)], Section 202, bonds, and Farmers Home Administration loans.

This program is currently being used througout the SCAG region to provide a greater pool of assisted units in areas of either low vacancy rates or areas containing potentially rehabilitable units. However, in the initial stage, the program has encountered limited activity. The problems most often cited in Section 8 New Construction and Substantial Rehabilitation are:

1. difficulties for developers to secure financing, especially regarding the construction of Sec. 8 family projects;

2. the complexity of the program;

3. owner's numerous program responsbilities;

4. low rents resulting from HUD's rent comparability test;

5. HUD sometimes advertises for such a small number of units that development is unprofitable;

6. inadequate incentives are offered to obtain projects with an economic mix of tenants;

7. the main emphasis has been on elderly projects because of the belief that elderly require minimum housing management and maintenance (which is owner responsibility);

8. difficulities in coordinating the Farmers Home Administration's rural rental housing loan program (Sec. 515) and HUD's Section 8 program. However, a recent court decision has directed the Department of Agriculture to implement its own rent-supplement program, rather than using the Section 8 program in coordination with the Department of Housing and Urban Development.

Examples of Section 8 New Construction projects can be found in the cities of Los Angeles, Midway City, Inglewood. A Section 8 substantial rehabilitien project has been developed by Watts Labor Community Action Committee (WLCAC).

Section 8 - "Existing"

The Section 8 Existing Program is used in areas that already have adequate supplies of existing vacant housing.

Typically, a Public Housing Agency (PHA)) administers a Section 8 program for existing housing, although HUD may administer it directly when no PHA exists or when the Secretary determines that a PHA cannot implement such a program. After approving a PHA's application for program participation and assuring itself of the PHA's legal, administrative, and financial ability to assume its program responsibilities, HUD enters into an annual contribution contract with the PHA to financially support the program. The PHA, in turn, enters into housing assistance payments contracts with the owner in which it agrees to pay a predetermined portion of the contract rent for one or more existing housing units occupied by families eligible to receive Section 8 assistance. Each month the owner of assisted units will receive rent from two sources -- the tenant and the PHA.

An important feature of the Section 8 existing housing program is the "finders-keepers" provision which permits a family to choose where it will live. This provision also permits an eligible family to remain where it lives if its housing unit meets prescribed standards. This provision means that the existing housing program will operate essentially as an income-maintenance program for participants already adequately housed but paying a disproportionate amount of their income for housing.

PHA responsibilities for administering the existing housing program include publicizing the program to owners and eligible families, issuing certificates of family participation to eligible families, inspecting units to be leased and approving leases, making monthly housing-assistance payments to owners, and periodically re-examining family income and redetermining the rent owed by the family. The HCD Act requires owners to get PHA approval before evicting a tenant.

The owners' responsibilities include selecting tenants (in compliance with equal opportunity requirements), collecting rents (a portion from the tenant family and the remainder from the PHA), and doing all routine and extra-ordinary maintenance.

The Section 8 certificate holder must find his own housing (with PHA aid under specified circumstances) and fulfill his lease and certificate obligations.

The lack of available large family (3 or more bedrooms) units coupled with low Fair Market Rents are the two main impediments to the success of the Section 8 "Existing" program in the SCAG region. The recent change in regulations allowing increases of 20% above FMR at the discretion of the HUD area office should help to alleviate the problem of the FMR's. Virtually all housing authorities in the SCAG region are contracted with HUD Section 8 Existing units

Section 8 - Existing "Recently Completed" Program

Under current regulations a housing authority may apply for Section 8 "Recently Completed" units. These units are defined as those existing homes and apartments that have been built within the last 7 years. The maximum fair market rent for "Recently Completed" units is equal to 75% of the HUD published Section 8 "New Construction - Substantial Rehabilitation" FMR for the area.

"Recently Completed" Section 8 Housing is currently being used as an effective implementateion tool for providing units for lower income families in those areas where inclusionary ordinances have been adopted. As an example, the City of Los Angeles is currently using a special HUD set-aside of "Recently Completed" Section 8 for implementing their 15% inclusionary ordinance.

Additionally, jurisdictions might examine the potential for the use of "Recently Completed" units' higher FMR's as a complement to local rehabilitation efforts under the Section 312 or Community Development Block Grant rehabilitation programs. Coupling the Section 8 "Existing" program by means of "Recently Completed" rents with rental units rehabilitated by federal funding may be a viable alternative to rent controls on these specific units.

PROGRAM 3

TITLE

Section 202 -- Direct Loans for Housing the Elderly or Handicapped

DESCRIPTION

The Section 202 elderly housing program has been amended by the Housing and Community Development Act of 1974 to such a degree that it bears little resemblance to the program that produced about 45,000 units from 1961 to 1972. The 3% direct Federal loan, which allowed Section 202 projects to offer elderly tenants subsidized rentals, has been replaced by a requirement that the Federal mortgage loan be based on actual borrowing cost to the U.S. Treasury. As a result, the financing cost of a Section 202 project using the current long-term treasury borrowing rate (the average rate paid on Federal obligations during the preceding fiscal year) -- now running in the 8% to 9% range -- plus the additional interest charges to cover administrative costs and to make the program actuarially sound, would be slightly less than the borrowing cost for projects built with FHA-insured or conventional, market-rate mortgages. In short, only a very narrow band of the elderly population, most certainly not those with lower incomes, would benefit from the program.

In partial recognition that the revised Section 202 was not a housing-assistance program but rather a financing vehicle, the Housing and Community Development Act now mandates its use with the Section 8 subsidy program. This allows the rents in a Section 202 project to be tied to a senior person's income rather than to the interest rate on the mortgage. Under the Section 8 program, tenants pay no more than 25% of their income, or 15% under special circumstances, toward rent. The remainder of the rent is paid by the government in the form of a housing-assistance payment to the owner.

Section 202 loans may only be used to finance either new construction or substantially rehabilitated projects which qualify for Section 8 assistance. Although covered by a Section 8 contract, regulations permit the leasing of units to senior persons not qualifying for Section 8.

Private nonprofit sponsors are eligible for loans. Public bodies are specifically enjoined from program participation. The mortgage limit is $50 million. Households of one or more persons, the head of which is at least 62 years old or is handicapped, are eligible to live in the structures.

Section 202 funds are distributed on a geographic basis, under a formula set forth in the 1974 Housing and Community Development Act. As Section 202 funds become available, HUD will publish in the Federal Register invitations to non-profit organizations for reservations for Section 202 loan authority. Sponsors must indicate whether the project will be located in a metropolitan or non metroplitan area, which state, as well as the number of Section 202 units to be constructed. HUD will apply a 300-unit limit per applicant per region for each separate Section 202 invitation. Sponsors need not identify specific sites or locations at this point. HUD Washington will review Section 202 proposals. Crucial to approval is capital and capacity to carry a housing project through to completion. Upon approval, HUD will issue a Section 202 Fund Reservation to the Sponsor. The sponsor will than pick up a special developers packet from the local HUD office. From this point, the sponsor has 18 months (one six-month extension is permitted) to submit a Section 8 preliminary proposal for a specific project, including the proposal site, contract rents, etc., to the Area Office for screening and evaluation. Afterwards, normal Section 8 processing procedures are followed.

LEGISLATIVE AUTHORITY

Legal authority for the Section 202 program comes from the Housing Act of 1959 (P.L. 96-372), as amended in Housing and Community Development Act of 1974, Title II, Section 202.

PRECONDITION FOR USE

This program is not available to local governments. Only private non-profit sponsors are eligible. Local jurisdictions are, however, involved in Section 202 projects through their Housing Authorities and the Section 8 program.

COMMENTS

The major impediment to Section 202 program implementation has been HUD's inability to administer two separate programs (Section 8 and Section 202) rather than just one. Presently, the Section 8 program (using conventional, FHA-insured or tax-exempt-bond financing) have the same objective -- that of providing good-quality housing, in projects specifically designed for elderly and handicapped occupancy, at rents adjusted to fit the budgets of even the lowest-income tenants. As a result, the 202 program has been plagued by processing delays.

PROGRAM 4

TITLE

Section 312 -- Rehabilitation Loans

DESCRIPTION

Section 312 loans are provided by HUD for rehabilitation of residential properties located within a Redevelopment Project Area, a Neighborhood Development Program Area, or a Community Development Target Area. In the case of a Community Development Target Area, HUD will approve loan applications only if other Block Grant expenditures are committed by the local jurisdiction in support of coordinated community-development objectives.

Loans are handled on a case-by-case basis with the local juridiction filing all necessary loan application papers with HUD Region IX for approval and subsequent processing.

The interest rate on approved loans is 3%, and the loan amount is limited to $27,000.

Loans under Section 312 carry a 20-year payback period and, in some cases, the existing debt on the property can be refinanced.

The primary purpose of the Section 312 loan program is to provide low-cost funds to eligible households to bring their residences up to local code requirements. Accordingly, the majority of the loan amount is to be used for this purpose. However, reasonable general property improvements involving non-code items are usually allowed.

LEGISLATIVE AUTHORITY

Section 312 of the Housing Act of 1964, as amended.

PRECONDITIONS FOR USE

The primary precondition for use is the existence of an action area where other community development activities are in progress.

COMMENTS

The Section 312 program has generally proven its value as a housing rehabilitation tool in NDP and CDBG Target Areas over the past several years. It is highly attractive because of its many liberal features: low interest-rate, high loan amount, refinancing capacity, and extended payback term. Perhaps the least attractive feature is the considerable staff time required to prepare loan applications. However, this seems a small price to pay, considering the many benefits of Section 312 loans.

PROGRAM 5

TITLE

Section 235 -- Home Ownership Assistance for Lower-Income Households

DESCRIPTION

The Section 235 program provides homeownership assistance for lower income families. The Federal Housing Administration (FHA) insures the mortgage and makes monthly payments to lenders to reduce interest cost to as low as 5%. The homeowners must contribute 20% of adjusted income toward monthly mortgage payments and must make an investment equal to the greater of:

(a) 3% of the first $25,000 plus 10% of the balance of acquisition cost over $25,000; or
(b) 6% of the estimated cost of acquisition. This amount may also include prepaid expenses and closing costs.

Eligible housing includes new or substantially rehabilitated single-family dwellings or condominums approved before construction or substantial rehabilitation is begun. Other caveats include, but are not limited to: 1) construction or rehabilitation must not have begun before October 17, 1975; 2) the sales price must be supported by value; 3) existing housing is not eligible for the program, and 4) the mortgage amount may not exceed $45,000.

The eligible applicant must be a "family" of two or more persons related by blood, marriage or operation of law; or a handicapped person; or a single person 62 years of age or older. Applicants must also agree to receive homeownership counseling under prescribed terms and conditions. Besides meeting family eligibility criteria, the applicant must also have an income below dollar limits which HUD sets by family size.

LEGAL AUTHORITY

Legal authority for the Section 235 program derives from the National Housing Act (1934), as amended by Section 101, Housing and Urban Development Act of 1968, (P.L. 90-448).

PRECONDITION FOR USE

Eligible applicants must have an adjusted family income not exceeding 80% of the area's median income, with adjustments for smaller and larger families. Adjusted family income includes:

income expected to be received during the next 12 months from all sources, before taxes or withholding, of all family members living in the unit, but excluding:

(a) 5% for Social Security withholding and similar payroll deductions;

(b) Unusual or temporary income;

(c) A deduction of $300 for each minor under 21; and

(d) The earnings of such minors.

Income recertification is required annually and at any other time that the gross family income increases by $50 or more per month. There is no restriction on assets. The program is designed to serve lower income families, though those eligible for assistance constitute a small band of families with incomes near the upper limits.

COMMENTS

The sales price of an eligible unit may be up to 120% of the mortgage amount. The mortgage is made at prevailing FHA interest rates, with a .7% mortgage insurance premium (MIP). The maximum mortgage term is 30 years. An application for an eligible purchaser is made by the mortgagee on FHA Form 3100. Processing is handled by the local HUD office, which decides on buyer applications and project approvals. If the application is approved, a Mortgage Insurance Certificate is issued. This certificate obligates HUD to pay mortgage-assistance payments for the mortgagor (eligible buyer), and requires the mortgagee to obtain annual recertification of mortgage income. The assistance payments terminate when the property is sold.

The big problem with the Section 235 program is keeping such housing out of the grasp of speculators. Construction and land costs, coupled with exceptional buyer demand, have contributed to runaway housing prices in most of the SCAG region. This situation has given some first buyers of 235 housing windfall profits at the expense of the developer and taxpayer: the home bought at a subsidized price was then resold for a substantial profit. A classic example of this type of profiteering occurred in Irvine, in the sale of Woodbridge homes.

In Woodbridge, the city required the Irvine Co., the developer, to set aside 10% of the housing units for moderate-income families. To make such homes available, the Irvine Co. received certain parking and density variances. The homes built were priced from $31,000 to $33,000.

However, many of the screened buyers placed their homes back on market for a quick profit, since the market value was much higher than their purchase price. With no legal limit on the profit that a home purchaser may make, there is no safeguard against speculation in the Section 235 program, other than the desire of the eligible buyer to own a home, or controls that the locality may place on resale.

PROGRAM 6

TITLE

Section 515 -- Rural Rental-Housing Assistance

DESCRIPTION

This program, administered by the Farmers Home Administration (FmHA) provides permanent financing at market or subsidized interest rates to eligible borrowers to build multi-family housing for low- and moderate-income families in non-metropolitan areas. Sponsors may be a public or private entity meeting certain criteria. Some of these are: 1) a sponsor must meet an inability-to-obtain-credit requirement before a Farmers Home loan may be had; 2) the project must be located in a jurisdiction with a population of 10,000 or less (under special circumstances the limit may be increased to include areas with population of no more than 20,000); 3) projects may not be located near an urban area; and 4) projects must be located in residential areas where essential facilities and services such as schools, medical services, shopping and generally central water and sewers are readily available. Loans are generally for amounts less than $1.5 million. For loans above that amount, national office approval is required.

The 515 program is usually for one- or two-bedroom units not exceeding two stories in height. Generally, 515 developments are one-story structures. FmHA does not have much experience with larger units designed for family occupancy, partly due to the cost-per-unit limits established for larger size units.

Interest-reduction credits (subsidy) on mortgage loans, down to as low as 1% for non-profit sponsors, are the basis for the reduced rents in 515 developments. Recently, however, the 515 program has been coupled with the Department of Housing and Urban Development's Section 8 program to obtain a deeper subsidy for Section 515 tenants. Under the Section 8 program, tenants pay no more than 25% of family income toward rent (in special cases, 15%). The remainder of the rent is paid through a Housing Assistance Payment by HUD or a local Public Housing Agency.

LEGISLATIVE AUTHORITY

Section 515, U.S. Department of Agriculture, Farmers Home Administration

PRECONDITIONS FOR USE

To be eligible for 515 or Section 8 subsidy, householders must be persons 62 years or older or families with incomes below set income limits. However, the Farmers Home Administration intends to implement its own rent supplement program in the near future. This new program is likely to replace the Section 8 program as a tenant-subsidy mechanism in rural areas.

COMMENTS

Section 8 subsidy may be used in existing 515 developments for up to 20% of the units. However, this limit may be increased by the State Director under special circumstances. For new construction and substantial rehabilitation, eligible developers are given priority during processing. However, Section 8/515 developments are not approved if they are near existing 515 developments for fear that such developments will siphon off 515 tenants from existing 515 developments that do not have Section 8 rent supplements. The development time, from application approval through construction, takes from a year to a year and a half. Processing under this combination program is handled exclusively by the Farmers Home Administration. Interested developers can contact the local County Supervisor, who initiates the application process. Section 515 developments exist in the SCAG region's rural counties -- Riverside, San Bernardino and Imperial Counties. About 65% of the developments are located in Riverside County.

TITLE

Urban Homesteading

DESCRIPTION

Under the Urban Homesteading Program, a portion of HUD's inventory of foreclosed one- to four-family properties are transferred without cost to local jurisdictions. The properties, in turn, are then conveyed to eligible families for one dollar. Families participating in the program are required to: (1) rehabilitate the properties to conform with local codes within the first 18 months of occupancy, and, (2) reside in the property for at least three years.

LEGISLATIVE AUTHORITY

Section 810, Housing and Community Development Act of 1974, and California Government Code Sections 37362 and 37363.

PRECONDITION FOR USE

This program is not available to all jurisdictions. Only those designated by the Secretary of HUD are eligible to participate in the program. Los Angeles and Compton have recently been so designated and will be the first cities in the SCAG region with such status.

COMMENTS

This program has been tested in 23 other cities in the country under a demonstration program. Fifteen additional cities have been added, including Compton and Los Angeles. However, the level of funding (15 million for 1977) will keep the program in the demonstration category.

Section 312 low-interest rehabilitation loans are available for use in tandem with the Homesteading program.

Secretary Harris of HUD recently stated that "progress reports from the 23 cities already in the demonstration amply justify enlargement of this unique test of government and private resources to aid urban neighborhoods and their residents in need of housing."

Although the program is apparently successful, it will be almost negligible in impact until it is expanded. A total of 450 units have been authorized for the program in the 15 newly participating jurisdictions, equal to an average of only 30 urban homesteading units in each participating jurisdiction.

Despite these limitations, the program should accomplish two important objectives. One is to greatly reduce the cost of housing for eligible families. In essence, housing is made available for the costs of rehabilitation. Second, foreclosed properties are occupied much sooner than under normal circumstances, thus reducing the length of time they are boarded up. This latter condition invites vandalism and fires, and produces other negative effects that contribute to neighborhood decline.

PROGRAM 8

TITLE

Title I Insurance -- Property-Improvement Loans

DESCRIPTION

This is a program for the insurance of property-improvement loans. Participating lending institutions are authorized by FHA to make loans at conventional rates to qualified home-owners. The loans are insured by FHA for up to 90% of the maximum potential loss to the lender. The program also applies to mobile homes.

The program must be initiated by the local jurisdiction by contracting the participating lending institution and arranging for the program to be instituted in a designated area. The local jurisdiction processes loan applications and submits them to the lending institution for approval. Once approved for the agreed-upon rehabilitation estimate, the bank releases funds to the city to cover the costs. The city releases payment in full to the contractor upon completion of work; the loan recipient then makes monthly payments to the lending institution.

LEGISLATIVE AUTHORITY

Title I, Section 2 Housing Act of 1934, as amended.

PRECONDITION FOR USE

Designated Target Area with Community Development activities in support of housing.

COMMENTS

This program is attractive for use in an overall housing program by virtue of the loan insurance feature. Because the conventional interest rate is a standard feature of the program, local jurisdictions considering its use need to develop ways of reducing the interest rate if the objective of benefiting low- and moderate-income households is to be met.

The County of San Bernardino has devised a method whereby local home owners may benefit from interest rates written-down to between 3% and 7%, depending on their ability to meet income criteria established by the county. While San Bernadino County uses Community Development Block Grant funds to write-down the interest rate, it is possible to use other appropriate funds. Security Pacific Bank is the only institution participating in this program in the SCAG region, and is involved in approximately 25 jurisdictions in California with Title I Programs.

TITLE

California Housing Finance Agency -- Mortgage Financing and Neighborhood. Preservation

DESCRIPTION

The CHFA's neighborhood-preservation strategy uses two types of loans to rehabilitate existing low- and moderate-income housing. One is called "concentrated rehabilitation"; the other "scattered site". CHFA assists neighborhood preservation only in areas where a local code-enforcement or neighborhood-improvement program is being carried out.

Mortgage assistance is also available from the California Housing Finance Agency for use in neighborhood-preservation areas. The primary purpose of this program is to provide mortgage money in red-lined areas.

LEGISLATIVE AUTHORITY

Programs and activities of the California Housing Finance Agency are authorized by the Zenoich-Moscone-Chacon Act which created the agency as of September 26, 1975.

PRECONDITION FOR USE

Neighborhood Preservation (Rehabilitation)

According to the neighborhood preservation program allocation priorities established by the CHFA, prospective rehabilitation areas are examined and evaluated against characteristics in three categories. They are referred to as: "most important characteristics", "Very important characteristics"; and "important characteristics".

In order to address the diversity of housing patterns throughout the state, the Agency has determined that the failure to meet some of the items in any category will not preclude a neighborhood from receiving assistance. In determining preference for the allocation of financing assistance, priority consideration will be given to those neighborhoods which, as a result of analysis and examination, present the greatest number of favorable CHFA staff comments on the items in the three categories. Clearly, the greater the number of favorable comments on "most important characteristics" and "very important characteristics", the greater the likelihood that an applicant neighborhood will receive a high priority consideration for CHFA area designation and financial assistance.

Any findings required by section 41551 of the Zenovich-Moscone-Chacon Housing and Home Finance Act ("the Act") and any other legal requirements are hereby incorporated into these allocation priorities. Unless otherwise indicated, all citations below refer to the Act.

I. MOST IMPORTANT CHARACTERISTICS

a. Proposed rehabilitation areas must have no more than 80% substandard residential structures. For purposes of these allocation priorities "substandard" shall be defined in accordance with the California Health and Safety Code section 17920(f).

b. At least 80% of the residential structures must comply with housing code standards in two years.

c. Absent complementary local financing programs, at least 75% of the substandard structues must not require financing assistance in excess of program limits to be upgraded to standard condition.

d. At least 66% of the owners of substandard residential structures must be eligible for financing assistance under the NP Program.

e. The area should have at least 40% of its residential structures resident-owned and with at least 66% of all residential structures being single-family.

f. The proposed project shall benefit low and moderate income families and persons, and shall seek to efficiently utilize available housing subsidies (s. 41550.5(c)).

g. The operation of the program must cause minimum displacement (s. 41551(f)); all those displaced must have adequate relocation assistance pursuant to the California Relocation Assistance Act.

h. The total CHFA resources should be committed throughout the state in proportion to regional needs as indicated by the Department of Housing and Community Development through the State Housing Element and the State Housing Plan, with attention paid to regional plans where applicable. Designation of the area must be consistent with the local Housing Element (s. 41551(i)) and the Housing Assistance Plan (s. 41551(j)). The State Department of Housing and Community Development will be asked for its evaluation of the compatability of a proposed project and area with the local public entity's plans. If the proposal is found to be inconsistent, either the application will be rejected or the local public entity will be asked to amend its application.

i. Citizen participation must be an integral part of neighborhood designation (s. 41551(a)).

j. The application package and contact with the local public entity should indicate good administrative capability and should reflect a degree of perception and insight with respect to program operation.

k. Affirmative action plans (s. 41335), relocation provisions (s. 41551 (h-i), and staffing must be well conceived and formulated.

l. The local public entity should show to the satisfaction of CHFA that it will provide all public improvements and necessary services (s. 41551(f)1) for the designated area by the time the rehabilitation of residential units is started or within a reasonable period thereafter. Public improvements and services shoud be provided at a level consistent with the best in the locality.

m. Housing and Community Development Act of 1974 (Public Law 93-383) and other money should, where appropriate, be used for interest subsidy, deferred payment loans and similar programs.

n. Private lenders must be willing and able to commit sufficient funds to the area to satisfy the projected demand for conventional borrowing to re-establish a viable rehabilitation and private mortgage market. Also considered will be the need for loans to start, revitalize and maintain supportive commercial facilities such as food stores, drugstores, and the like.

II. VERY IMPORTANT CHARACTERISTICS

a. Availability of residential lending should be below acceptable levels for the community at the time of the application.

b. The residents and owners should demonstrate a belief in the probable success of a rehabilitation program in the neighborhood and concern for the neighborhood.

c. Local political leaders should give the program a high success probability, as should local realtors and lenders.

d. Other programs operating in the neighborhood should complement the program. These programs could include activities such as management of abandonded houses, interim counseling for owners and tenants, senior citizens programs, juvenile recreational programs, self-help and work experience programs with staff to provide instruction and assistance in performing rehabilitation of homes in the area, and policy and/or fire department community liaison program.

e. Neighborhood which surround the designated area must not be in such deteriorated or declining condition as to exert pressure for renewed blighting of the designed area after the full rehabilitation program has been implemented and completed.

f. Local public entity must have adequate policy statements showing how the proposed CHFA-financed rehabilitation project relates to the community's overall planning and community development strategy.

g. The relationship of the size and scale of proposed neighborhood should be in proportion to projected staff and dollar resources of the locality.

h. The program should have a positive effect on current lending activity as evaluated by lenders, realtors, appraisers, and resident lenders. It should have a positive effect on housing market dynamics, socioeconomic indices, lending practices, citizen perception of neighborhood, and local capital investment.

i. There should be no more than a few abandoned homes in the proposed area.

j. The proposed use of CHFA financial assistance should be such as to not replace or substitute for alternative means to achieve substantially the same result (s. 41550). 5(3).

III. IMPORTANT CHARACTERISTICS

a. Area selection should demonstrate sensitivity to the neighborhood and its residents on the part of the local public entity.

b. There should be one or two major problems which, if solved would improve the neighborhood

c. Visible impact should be possible through the program.

d. The length of time required for impact to be measurable should be short.

e. The history of success of other housing or nonhousing programs operated in the area should indicate a probability of success for the proposed rehabilitation program. (This is not applicable if no other programs have operated in the area before.)

f. Similar past programs in the area, if any, should indicate homeowner ability to afford rehabilitation costs and to repay loans.

g. The proposed rehabilitation area should be identifiable as a neighborhood.

For Mortgage Funds Assistance Area, selection of neighborhoods for participation will proceed in the same manner as for the Neighborhood Preservation Areas. However, the applied criteria are as follows:

a. Availability of residential lending must be below acceptable levels for the community at the time of the proposal (s. 41556(a)).

b. Availability of mortgage funds should arrest deterioration (s. 41556 (d)), be economically feasible (s. 41556(e)), and primarily benefit persons and families of low and moderate income (s. 41556(g). The proposed project should seek to take advantage of available housing subsidies (s. 41550.5(c)). There must not be a great number of deteriorated houses in the proposed neighborhood (s. 41556 (b)).

c. The financing program should have a positive effect on current lending activity as evaluated by lenders, realtors, appraisers, and resident leaders. It should have a positive effect on housing market dynamics, socio-economic indices, lending practices, citizen perception of neighborhood, and local capital investment.

d. Private lenders must be willing and able to commit sufficient funds to the area to satisfy the projected demand for conventional borrowing to re-establish a viable rehabilitation and private mortgage market. Also considered will be the need for loans to start, revitalize and maintain supportive commercial facilities such as food stores, drug stores, and the like.

e. Neighborhoods which surround the proposed area must not be in such deteriorated or declining condition as to exert pressure for renewed blighting of the designated area after the full rehabilitation program has been implemented and completed.

f. Total CHFA resources should be committed throughout the state in proportion to regional needs as indicated by the Department of Housing and Community Development through the State Housing Element and the State Housing Plan, with attention paid to regional plans where applicable. Designation of the area must be consistent with the local Housing Element and the Housing Assistance Plan. The State Department of Housing and Community Development may be asked for its evaluation of the compatibility of a proposed project and area with the local public entity's plans. If the proposal is found to be inconsistent, the local public entity may be asked to amend its application.

g. There should be no more than a few abandoned homes in the proposed area.

h. Affirmative action plans (s. 41335), relocation provisions, and staffing plans shall be well conceived and formulated.

i. The area should have at least 40 percent resident ownership, and with at least 66 percent of all residential structures being single family.

j. The local public entity should show to the satisfaction of CHFA that it will provide all public improvements and necessary services for the designated area by the time the rehabilitation of residential units is started or within a reasonable period thereafter. Public improvements and services should be provided at a level consistent with the best in the locality.

k. Other programs operating in the neighborhood should complement t he mortgage funds assistance area program. These programs could include activities such as management of abandoned houses, interim counseling of owners and tenants, juvenile recreational programs, self-help and work experience programs with staff to provide instruction and assistance in performing rehabilitation of homes in the area, and police and/or fire department community liaison program.

COMMENTS

The mortgage funds assistance program could become a useful tool for local jurisdictions, in conjunction with an overall reinvestment strategy in mortgage-deficient areas.

Currently, loans for rehabilitation purposes are made by the CHFA at 7-1/2% interest. There are at least two other sources of funds for the same purpose that are available to most communities at much lower interest rates. HUD's 312 loan program carries a 3% interest rate, while programs established throu gh use of Community Development Block Grant Funds usually range between 4% and 6% interest.

While these latter programs are clearly superior, based on a comparison of interest rates only, CHFA funds for rehabilitation purposes can nevertheless play an important role in a local jurisdiction's overall housing program. By using Community Development Block Grant funds to further reduce the interest rate of CHFA rehabilitation loans, or to provide a modest grant program, the effectiveness of the State program can be increased. Even without such added subsidy, the program must be valued as another financial resource providing below-market interest rate loans to moderate- and perhaps low-income households.

The legislation which created the CHFA went into effect two years ago (September 1975). Thus it is a young agency with no track record upon which to judge the effectiveness of its programs. In fact, some of the essential operational aspects of the agency are still being developed. Because of this situation, jurisdictions in the region are urged to carefully monitor the development of final program regulations and, as appropriate, use CHFA programs to the maximum extent possible toward meeting housing needs.

PROGRAM 11

TITLE

Farmworker Housing

DESCRIPTION

The needs of California farmworkers and the resources required to meet these needs are documented in the Farmworker Housing Assistance Plan, a component of the Statewide Housing Plan.

Because no single program has the capacity to meet the varied needs of farmworkers, the plan includes use of several programs from both state and federal levels. Basically, the programs of the Farmers Home Administration (FmHA) are stressed, along with State Employment Development Department seasonal housing units.

LEGISLATIVE AUTHORITY

As stated above, the number of programs included in the farmworker housing program is varied with authority being derived from federal and state resources. Key state programs are the Employees Housing Act, and the Migrant Services Program of the Employment Development Department.

PRECONDITIONS FOR USE

These programs are restricted to use in rural areas only.

COMMENTS

Farmworker housing needs in the SCAG region are primarily found in the counties of Ventura, Riverside and Imperial.

Most of the seasonal housing available for migrants is in employer-owned labor camps, but this housing stock is decreasing. There has been very little new construction of such camps in the past six years. Moreover, large numbers of camps do not meet the standards of the Employee Housing Act and, because of the expense of rehabilitation, employers prefer to close or destroy such camps rather than bring them up to standard. During the past six years, the number of housing units in labor camps has decreased by over 60%. Conserving and, if possible, encouraging new construction in the employer-owned housing stock is of critical importance to prevent further depletion of this supply.

PROGRAM 12

TITLE

Marks-Foran Residential Rehabilitation Act

DESCRIPTION

This Act authorizes cities, counties, redevelopment agencies and housing authorities to issue revenue bonds for the purpose of making long-term, low interest loans to finance residential rehabilitation in depressed residential areas.

LEGISLATIVE AUTHORITY

Health and Safety Code, Section 37910.

PRECONDITION FOR USE

The Marks-Foran Residential Rehabilitation Act was originally written to apply only to those California cities with 600,000 or more population. Although later revised to make all cities eligible, it apparently remains untried by most.

The sale of bonds is arranged for through a private lender at the going rate, 5-1/2%. A point is added to cover loan-processing charges, and loans are made by the city at 6-1/2%. The city's deposit may be used as payment to the bondholders if rehab loan payments are slow or defaulted on. (Alternatively, the bond offering could fund this reserve.) State insurance against default could obviate the need for a reserve fund to cover defaults, although banks involved with this model have wanted to see the city's financial commitment to the program before offering bonds for sale. The City of San Francisco pioneered use of this legislation, and provides the only implementation model known. In this model, money from the sale of bonds is used to supplement money available from the Block Grant Program and Section 312.

The advantages of this model are:

1. A significant loan fund is created;

2. Moderately low interest rehab loans can be made;

3. The city's deposit will return after the bonds have been retired;

4. The bank services the loans.

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* Revenue bonding differs from general obligation bonding insofar as the bonds are not backed by the "full faith and credit" of the municipality. They are backed merely by the revenues anticipated from rehab loans, plus the initial deposit of CDBG funds.

The disadvantages are:

1. The city owns the paper and will be indirectly involved with foreclosure proceedings;

2. Debt financing is not always attractive to localities;

3. The municipal bond market can be uncertain;

4. Payments to bond-holders must be made regardless of revenues derived from rehab loans.

TITLE

Municipal Housing Finance Agency

DESCRIPTION

A charter city can take a direct and active role in meeting its housing needs and at the same time retain greater local control and flexibility by establishing a municipal housing finance agency. A municipal housing finance agency could issue tax-exempt revenue bonds without requiring a referendum (although low-rent projects would still be subject to the restrictions of Article 34). The bond proceeds could be lent to developers of low-income housing at below-market rates. The community could further subsidize the interest rates by using CDBG or general revenue funds, as with Marks-Foran. (In fact, Marks-Foran and SB99 actually use a limited version of a housing finance agency subject to the various restrictions of those provisions.)

LEGISLATIVE AUTHORITY

Such a municipal housing finance agency was created by the city of Los Angeles in 1928 and was in existence from 1928-1947. The power of the municipality to create a housing finance agency was settled in Willmon v. Powell 91 Cal App 1, 266 Pac 1029 (1928). A more recent proposal for a municipal housing finance agency is contained in California Low and Moderate Income Housing Laws, Institute for Local Self-Government.

PRECONDITION FOR USE

Must be a charter city.

COMMENTS

A municipal HFA could affect housing quality, quantity, and cost by giving the community direct control over its housing development. A municipal HFA could also provide seed-money loans and technical assistance to non-profit low-income developers, carry out a land banking program, and break up red-lining by issuing loans in low-income areas. Most important, a municipal HFA allows the community to coordinate its housing plans and meet the specific needs of its locality.

TITLE

Tax Increment Financing through California Redevelopment Law (see Health and Safety Code, Section 33000, State of California).

DESCRIPTION

Tax increment is the increase in property tax revenues, within a redevelopment area, which accrues because assessed value increases. Through California Redevelopment Law, tax-increment revenue is paid to the Revelopment Agency, which may use those funds for site clearance, off-site improvements, rehabilitation, purchase of structures/land within the redevelopment area, and/or repayment of bonds. Thus tax increments provide moneys which may be used by the redevelopment agency to increase the financial feasibility of development to occur within the redevelopment area.

In several redevelopment areas (examples include City of Los Angeles, Costa Mesa, Inglewood), tax increments have been used as a tool for making land available for the development of moderate- and lower-income housing. The redevelopment agency can help make sites available by assembling parcels into a developable site, and/or by writing-down (i.e., reducing) land cost. This makes the development of federally assisted housing (Section 8, Section 23, 202, 236) more feasible. Often such write-downs are accomplished by using the jurisdiction's Community Development Block Grant revenues (see CDBG section of this Housing Element for further discussion of CDBG regulations). CDBG funds and tax-increment income may be used by a redevelopment agency to provide off-site improvements, easements, etc.; this further lowers the developer's costs.

Further, redevelopment agencies may, under State Law and HUD guidelines, select specific developers to build assisted housing. Outside redevelopment areas, only HUD may select the developer. Thus, jurisdictions that want to choose their own developer, to ensure that assisted-housing development responds to local regulations and concerns, find the redevelopment agency the appropriate mechanism for this purpose.

About half of the 156 jurisdictions in the SCAG region have redevelopment agencies.

These agencies may also use the same write-down procedures to ensure rehabilitation of existing structures within the Redevelopment Area, or may use the increment for rehabilitation loans or grants. The City of Commerce has a rehabilitation program funded by tax increments.

Not less than 20% of all taxes (increment) allocated to the redevelopment agency must be used by the agency to increase and improve the community's supply of housing for persons and families of low, moderate, and very low income, unless:

(1) no need exists in community (fair-share-reference)

(2) some percentage less than 20% is sufficient to meet need.

(3) equivalent funds from other sources are already being used for this purpose.

Under this section the agency may:

(1) acquire land or building sites

(2) improve land or building sites with offsite improvements

(3) donate land to private or public entities

(4) construct buildings or structures

(5) acquire buildings or structures

(6) rehabilitate buildings or structures

(7) provide subsidies to or for the benefit of persons or families of very low, low, or moderate income.

(8) develop plans, pay principal and interest on bonds, loans, advances or other indebtedness, or pay financing or carrying charges..

The redevelopment agencies may use funds inside or outside the project area. Use of funds outside the project area requires resolution by the agency and legislative body that such use will be of benefit to the project.

LEGISLATIVE AUTHORITY

California State Health and Safety Code, Chapter 4, Article 4, Section 33334.2.

PRECONDITION FOR USE

Redevelopment Agency

COMMENTS

This legislation went into effect in January 1977, and applies to those projects begun on or after this date. It is too soon to attempt an analysis of how this particular statute has performed.

Nevertheless, the legislation is important for several reasons, among which is to clearly present the responsibility for developing low- and moderate-income housing. The legislation allows more latitude in decisions on where replacement housing should be located, allowing tax-increment funds to be used to build assisted housing outside of the project area. Companion legislation establishes a low- and moderate-income housing fund, and requires one-to-one replacement of dwelling units for sale or rent to low- and moderate-income families removed from the project area or territorial jurisidiction of the agency.

The community, through its CDC or other agency, should issue revenue bonds to provide financing for cooperative housing. It should then make those funds available as 100% index loans to nonprofit cooperatives.[1] By using CDBG funds to subsidize the interest rate, these loans can be made even more attractive, and lower the cost of the cooperative housing. As a condition of its giving these loans, the community should require various restrictions against conversion of rentals to condominiums, and depending on the community needs, should require that a certain percentage of the units be offered as very-low income housing, through the Section 8 Program or other available subsidies.

Cooperatives are the one form of housing ownership that can bring private home ownership within the reach of most low- and moderate-income people, the vast majority of whom are renters. As home owners, these residents would be able to take advantage of income and property-tax deductions, and would enjoy a sense of pride and security which has the added bonus of bringing stability to the neighborhood and community.[2]

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[1] Index loans are set at some low rate of interest and are then increased by an amount determined by an inflation indicator -- usually the cost of living index.

[2] See California Revenue and Taxation Code Sections 17264-17265 for state income tax deductions, 26 U.S.C. 216 for federal income tax provisions.

TITLE

Zoning and Land Use Regulation

DESCRIPTION

Zoning and subdivision regulations are the chief regulatory tools local governments use to guide housing development. Such land-use controls are important for implementing comprehensive plans, providing orderly municipal growth, protecting the natural environment, protecting residences from negative environmental impacts, and providing for the health, safety, and well being of a community's citizens. However, if zoning and subdivision regulations go beyond these objectives, they can discourage cost saving innovation in land use and housing design. In fact, such regulations can effectively exclude housing affordable by persons of modest means. Land-use regulations have areawide significance, for if exclusionary regulations became the pattern throughout a metropolitan area, the cost of housing would be driven up for nearly everyone. Communities should establish minimum standards which protect the legitimate public needs for health, safety, and welfare, and should not exceed these standards.

LEGISLATIVE AUTHORITY

Local Policing and Regulatory Powers

PRECONDITION FOR USE

None

COMMENTS

With the rapid increases in the cost of new housing in recent years, increased attention and concern must be given to local land-use regulations. Many of the other costs of construction are fixed for the developer, so that density, house and lot size, garages and other amenities required by land-use ordinances become critical variables in determining the feasibility of lower-cost residential development. It is essential that local codes and ordinances be conducive to the construction of modestly priced basic homes and apartments.

<u>Overzoning</u>: Many cities in the region have vacant land which would be appropriate for new residential construction but which is zoned for commercial or industrial use. Such zoning is not necessarily restrictive. However, in many areas of the region, considerably more land is zoned for commercial or industrial use than even the most optimistic growth projections would require. Since there is a shortage of residential land, particularly in the more developed areas of the region, a re-examination of some of the "overzoning" could contribute significantly to addressing the region's housing needs.

Another example of how overzoning contributes to housing need is current residential areas zoned for higher density or for other uses. In many cases, this higher zoning is justified. However, many neighborhoods zoned for higher use have deteriorated because owners have been reluctant to maintain buildings which eventually must be demolished to accommodate these higher uses, and because permits have not been given for additions, rehabilitation, or new construction in these "non-conforming" areas. Many such areas are highly unlikely to be recycled to designated uses; others are providing needed low- and moderate-income housing which should be maintained rather than torn down for other uses.

Multi-family Zoning: Many cities have little or none of their vacant land zoned for multifamily use. Such zoning would greatly facilitate the development of moderate income and assisted housing. The scarcity of properly zoned land in certain areas not only limits the possibility of the needed development, it also tends to increase the price of those parcels which are available, thus contributing to housing needs and the price of providing assisted housing.

Excessive Requirements: Zoning ordinances may specify an unnecessarily large lot. Large lot size adds not only to the initial cost of land but also adds increased utility and support service costs. Since most builders feel that housing cost should bear a certain relationship to lot cost, an increase in the lot price generally results in the construction of a more expensive house. Selective use of large lot zoning in areas being urbanized might be acceptable in response to special problems involving soil conditions and topography, or in areas where, in accordance with regional plans, rural or very low densities may be desirable to prevent premature urbanization.

Parking requirements also may sometimes be excessive for particular types of developments or particular parts of the locality. They frequently limit opportunities for development of modest cost or assisted housing. Relaxation of parking requirements is a tool which localities can use to secure cost/rent reductions from developers or to encourage assisted-housing development. Naturally, reduced parking requirements are suggested for only those developments where fewer parking spaces would not cause traffic or parking problems or where mitigating measures could be instituted.

Codes and ordinances also may specify larger minimum house sizes than are necessary from the standpoint of health and safety. Unit-size requirements are particularly significant since the size of a house is the single most important cost variable in constructing a new home.

To place the issue of zoning ordinances in perspective, it is fair to say that the SCAG region is not generally characterized by highly exclusionary zoning requirements. The issue is to identify individual cases where excessive requirements exist, and to correct them. There are legitimate reasons for many of the requirements imposed by local units of government, and reducing zoning requirements would not necessarily by itself significantly reduce the cost of housing. Changes in the practice of builders and lending institutions would also be required to make cost reductions possible. This is not to say that where exclusionary ordinances exist that they should be continued; communities should carefully examine their zoning and land-use ordinances to see if they are still relevant and necessary or if they have become exclusionary in view of the present housing situation.

Density: The number of units permitted per acre is another important determinant of housing cost which is regulated by zoning ordinances. The number of units a developer can build is generally reflected in the price or rent of the housing constructed.

One way to encourage the development of moderate income or assisted housing, therefore, is to offer density bonuses. That is, the developer can be allowed to develop units at a higher density in return for specified price/rent reductions or for developing units within a specified price/rent range. The City of Irvine used a density bonus to aid the development of the Section 235 home ownership units. Another example is an ordinance recently enacted by Orange County which allows for a special zone in which higher density and smaller unit size are used to encourage developers to produce moderate cost housing. Density bonuses can also be used to enhance the feasibility of new assisted housing developments.

In using density bonuses, the locality should be careful to grant the bonuses only in return for specified actions by the developer. Simply applying higher density zoning to land will not necessarily reduce housing costs; it may increase profits or land values. In addition, very-high-density development can be more expensive than low-density development, so that bonuses may not be appropriate on land which is already zoned for moderate or higher density. However, if properly used, density bonuses can be a significant encouragement to reducing new housing costs and increasing needed housing production.

Planned Unit Development (PUD)

Land-use regulations and codes can be designed to achieve well-planned living environments, while at the same time providing housing in a variety of types for a range of incomes. In fact, such concepts as the Planned Unit Development (PUD) approach can actually reduce cost while providing for better use of the land, better protection of natural features, and a higher level of supporting services. Municipalities are increasingly adopting PUD approaches and more flexible zoning ordinances.

PUD's can reduce housing costs by allowing for grouping or sharing of parking, open space, recreation, or other facilities. They can also make a higher level of amenities available at lower cost than conventional single-family development by grouping these amenities. PUD's also allow for land-use planning which can afford more open space at higher density than conventional development. Finally, this planning and zoning tool can be used to reduce energy and water usage through more efficient land use and use of common facilities, as well as more efficient construction techniques which may be afforded by some Planned Unit Development. The Planned Unit Development is widely used in the SCAG region. Cities which have had success with this technique include Carson, Lawndale, Newport Beach, El Centro, Palm Springs, Seal Beach, Thousand Oaks, and Victorville.

Maintenance Standards: Codes can also be used to set maintenance standards for new construction, so that all units are developed in such a way as to ensure that they will be maintained.

Security and Safety: Developments can also be designed to reduce accidents and crime. Many standards of crime-preventive design have been developed and used throughout the SCAG region. These standards can be used to improve development in some of the reinvestment areas where crime is a serious deterrent to new investment, and in newly developing areas to prevent future problems of security and safety.

TITLE

Land Write-Downs and Land-Banking

DESCRIPTION

Land write-downs and land-banking are two methods cities may use to stimulate new housing development where it might not otherwise occur.

The practice of writing-down the cost of land to developers to make new construction feasible is common in urban-renewal project management. The Housing and Community Development Act (1974) allows local jurisdictions to use part of their funds to acquire land for residential development. If necessary, the land may be resold to a private developer at less than the cost to the jurisdiction. This practice is called a land write-down.

Land-banking is another method that cities and counties can use to stimulate and coordinate private development of housing, including assisted housing, for low-income people. In land-banking, local governments acquire and hold land suitable for housing until development circumstances are advantageous. In many instances, the local jurisdiction may combine the acquisition of land with a land write-down to create a feasible development opportunity.

LEGISLATIVE AUTHORITY

Both land acquisition and land write-downs are eligible alternatives under CDBG regulations. Localities may also use funds from other sources for this purpose.

PRECONDITIONS FOR USE

In the Block Grant program, localities must demonstrate to HUD that the land write-down is necessary to achieve a housing objective benefiting low/moderate-income households.

This same requirement would apply to a landbanking program using Block Grant funds. HUD will generally approve only short-term land bank proposals, so local governments should be prepared to use funds from sources other than the Block Grant for longer-range land-banking programs.

COMMENTS

Land write-downs should be applied only when project feasibility depends on the cost of land to the developer.

Areawide land-banking can be financed by contributions from one or more jurisdictions, using local Community Development Block Grant funds. County housing authorities might be used to administer areawide land-banking. Limited legislative changes could also allow Area Housing Councils to establish a revolving land-bank fund.

Land-banking is a valuable community-development tool. Early acquisition of land provides a hedge against inflation; this can be crucial in the provision of low- and moderate-income housing. Also, since the local government owns the land, it can influence the developer to provide low- and moderate-income units, and seek other benefits for low- and moderate-income households.

EXAMPLE: City of Palo Alto

The City of Palo Alto has one of the few active land-banking and land write-down programs in California. It began in 1970 with the emergency purchase of a vacant school. Later, the site was sold to a local non-profit corporation for a Section 236 housing development for the elderly. Palo Alto paid $600,000 for the parcel, and sold it to the developer for $445,000. The city retained an option to purchase the property from the developer after 45 years, or alternatively to receive a final payment of $300,000.* This acquisition was so successful that the city established a $500,000 land-bank fund.

Palo Alto's program can stop a development that does not include low-income housing. More important, the program allows the city to aid the production of low-income units by giving the developer a beneficial land-sales agreement. Since the program does not provide direct local housing subsidies, the city can forgo costly and time-consuming Article 34 referenda. This program allows the construction of high-quality, low-density assisted units in relatively costly areas of the city. A further benefit is that the city obtains future control over the parcel. If redevelopment is required many years hence, the city may buy the property and again direct its reuse.

Palo Alto's city staff recommended that the city adopt the following elements in a formal landbank program:

1. Institute a revolving fund with aggressive purchase, sale, and turnover of properties to limit the required input of local funds.

2. Since local boundaries may be too small with too few appropriate sites, consider a county-wide program.

3. Acquire or gain control of property through the use of alternatives to fee-simple acquisition, e.g., options to purchase, first refusal option, leases, etc. These means of reserving land for low-income developments are less costly than fee-simple acquisition and therefore do not diminish local funds.

4. Available major parcels of large vacant properties should be given high priority because of ease of development and potential for production in terms of total units. Small or developed parcels, less amenable to new contruction, should be given less emphasis.

The city staff considered and rejected public-agency involvement in site planning, recommending instead a developers' design competition.

Alternative methods of landbank acquisition were compared as follows:

1. <u>Outright Purchase</u>. This method would give the city full control over the land, but it also ties up large amounts of city funds.

2. <u>Option to Purchase</u>. An option gives the exclusive right to purchase the desired property at a stated price under stated conditions. Because the option restricts the seller from disposing of the property to anyone else during the option period, it has monetary value. An option to purchase may be obtained for up to six months, but the cost may be prohibitive. And even six months may be too short a period for holding land by means of the option to purchase unless the city immediately finds someone to buy and develop the land.

3. <u>Option to First Refusal</u>. Under the option of first refusal, the city and a property owner sign an agreement whereby the owner will notify the city if an offer is made on the property by a second party. The city then has a choice of buying the land at the price offered by the second party. This method is useful if the owner is not willing to sell when the city first contacts him and ensures that the city will be notified when the property is for sale, even if it is several years later. This method ties up very little money, but it gives the city less flexibility in negotiating a purchase price.

4. <u>Leasing</u>. If for some reason a property owner is not willing to sell but is willing to have someone else develop his property, a long-term lease may be appropriate. The city may lease property from the owner for a short term while it seeks a developer of low/moderate-income housing to buy or lease the property.

The planning department conducted a visual survey of the land within Palo Alto's political boundaries including vacant and potentially available land for landbank purposes. Three land classifications were found. Their benefits and problems are*:

1. <u>Small Parcels</u>. Palo Alto found that there was a substantial number of small parcels scattered throughout the residential areas of the city. Acquiring these parcels was seen as beneficial for the dispersal of low- and moderate-income housing throughout the city. However, there were some disadvantages as well. The obvious disadvantage of acquiring small parcels is that development of low- and moderate-income housing on them is less economically feasible because of the lack of economy of scale. Also, land costs per square foot are generally greater on small lots than on large sites in comparable areas.

2. Unincorporated Parcels. Palo Alto has designated land to be annexed in the future as an urban-service area.. Purchasing such land to be annexed in the future. Purchasing such land before its icnorporation would help reduce land costs and would provide larger parcels that would utilize economies of scale.

3. Developed Parcels. This would expand the available supply of land, but costs and the difficulty of managing the structure already existing, relocating families prior to redevelopment, etc., make this option prohibitive.

While the Palo Alto proposal is a well-thought-out program, many local governments lack the resources as well as vacant land opportunities to develop an effective landbank program. Often only in a county-wide, areawide, or regional arrangement can resources be combined in amounts large enough to acquire cheap sites in the path of development with adequate services and facilities, yet dispersed throughout the community. It shold be noted, however, that Palo Alto is an almost completely developed city with extremely high land values , and the program has been succeessful under these circumstances.

* Staff report to the City Council subject: Housing Land Bank, (Appendix A, p.17) City of Palo Alto Planning Department, May 2, 1974.

TITLE

Anti-Redlining Practices

DESCRIPTION

Anti-redlining practices are currently a small cluster of laws and actions that are specifically directed towards eliminating discrimination in mortgage lending based on geography.

A clearer understanding of the present effort to combat redlining is provided by separating the activities into three parts. One part involves an effort to determine the location and extent of redlining with much greater accuracy. A second part involves development of legal and administrative provisions to act against mortgage discrimination by geography. The third component involves direct action with financial institutions to mitigate and ultimately end redlining.

LEGISLATIVE AUTHORITY

The Federal Home Mortgage Disclosure Act (1975) is now in effect. Under this Act, all federally chartered lending institutions are required to publish data on residential mortgage loans by area. The requirement to publish such data is an important first step toward improving knowledge about the location and extent of mortgage lending. However, after obtaining the data, it then must be organized and analyzed before assessments can be made regarding the magnitude of redlining in a given area. SCAG has plans to conduct such a study and is currently seeking funding necessary for its accomplishment.

Further, SB7 (Holden) which prohibits redlining was just passed in the California State Legislature and signed by the Governor. This will provide additional aid for ending redlining practices.

PRECONDITIONS FOR USE

No special conditions are involved.

COMMENTS

Although the practice of redlining has existed for many years, only recently has the subject come under close scrutiny followed by proposals for legislative action. Given existing federal and state legislation, the quality of information regarding redlining should improve considerably. Recent legislation should also provide a basis for legal remedies in specific cases or perhaps on a class action basis.

Finally, there are immediate and direct steps that can be taken at the discretion of local jurisdictions. For example, in June 1976, the Board of Supervisors of Los Angeles County instructed the county treasurer to implement a policy of removing all funds from financial institutions which practice redlining. The board also requested the county treasurer to review reports which federally chartered banks must file to determine if the banks were complying with federal regulations under the 1975 Home Mortgage Disclosure Act.

In another case, the City of Los Angeles has mailed a six-question survey to each of the banks and savings and loans in which the city has current or potential time deposits. The survey is designed to help the city treasurer determine the status of each institution relative to possible redlining practices.

Although these actions are relatively passive, they act to serve notice on the financial community that local jurisdictions may choose to insitutute banking policies that consider local mortgage lending activity in addition to other financial factors

In yet another example of local action, a local morgage banker and planning commission member have written in the June 1976 issue of Practicing Planner that the efforts of local planners can do more to stop redlining than loans and regulations. In his view local action should be directed at savings and loan institutions (which make more than 75% of all home loans in the U.S.) and should begin with an effort to educate senior officers regarding the future viability of the areas now redlined. This requires creative efforts to emphasize the virtues of the area. Further steps to combat redlining include the following:

- Stimulate neighborhood organizations to turn their attentions to housing problems.

- Make sure the city provides standard levels of services to all neighborhoods.

- Organize real estate sales persons to promote their listings under a common neighborhood title, and with uniform local sales themes.

- Keep a data bank on local economics, demography, sales and rentals.

- Initiate practical, helpful code enforcement programs in tandem with:

    1. Practical arrangements for home improvement grants and financing;

    2. Information program for local lenders' staffs;

    3. Top level appeal to bank and savings and loan presidents;

4. House tours, local talent and skills exhibits, continuing community-wide publicity about small accomplishments.

- Fully use all state, federal and community funding devices, such as:

  (1) HUD, HEW, Farmers Home Loan Administration, or local state housing agency.

  (2) Tax exempt, tax allocation, and local improvement bonds.

  (3) Mortgage backed bond issues.

  (4) Community development and other grants.

  (5) Private research and assistance plans.

  (6) Bank and savings-and-loan lending programs.

  (7) High-risk revolving loan programs, especially Neighborhood Housing Services.

Direct, aggressive action to attack the problem of redlining can be initiated at the local level in the absence of additional legislation and regulations.

PROGRAM 18

TITLE

Code Enforcement

DESCRIPTION

Code enforcement is an organized effort by a local government to bring housing units within its jurisdiction into compliance with minimum housing/building codes. The objective of such programs is primarily to insure compliance with minimum health and safety standards.

LEGAL AUTHORITY

Local policing power to enforce health and safety ordinances.

PRECONDITION FOR USE

Administration ability to launch and maintain a program of access to grants and loans for households not able to afford conventional loans.

COMMENTS

The legally enforceable minimum standards for the entire community should be determined. This requires balancing of desirable health and safety standards with physical (structure age and original construction) and economic reality.

Recognize that there are legitimate differences of age, building types, and market conditions that exist in urban neighborhoods, and establish code requirements accordingly. This is where the use of voluntary neighborhood standards, above a very basic citywide minimum standard, would come into the picture.

Identification of older but still viable neighborhoods amenable to such higher standards might make it possible to encourage their preservation and focus city investment in services.

It is important to change the attitude that exists in most municipalities regarding government's role in housing preservation. Code enforcement can be administered in a helpful way that provides counseling and assistance in complying with the code. Housing assistance can be viewed as a service provided by local governments, which means more than just handing a property owner a list of violations. Instead, it would include technical assistance to understand the problems, discussion of alternative solutions, and initiating a feasible program of property improvement and financial counseling.

In a 1975 SCAG survey, Implementing Local Plans, all cities indicated use of zoning code enforcement, but only about 40% of them enforce housing codes. About 15% of all SCAG cities use systematic housing code enforcement, and about 25% use complaint only. All of the cities using systematic code enforcement rated the program as fairly or very effective.

TITLE

Inclusionary Ordinances

DESCRIPTION

Inclusionary ordinances are designed to ensure that housing for low/moderate-income families is provided in new subdivisions and major housing developments. The method most frequently used is to require that a percentage of the units developed be exclusively for low/moderate-income families to rent or purchase.

In the SCAG region, the City of Los Angeles has adopted such an ordinance. It requires that all new subdivisions and housing developments make reasonable efforts to provide 15% of units developed available to low- and moderate-income families. The City of Irvine has an adopted Housing Element policy which seeks to provide low/moderate-income housing in 10% of all new subdivisions and developments.

LEGISLATIVE AUTHORITY

There is no enabling legislation at the state level which authorizes local governments to enact inclusionary zoning ordinances. AB 437 (Kapiloff) was introduced to accomplish this objective in the 1975 session of the California State Assembly, but was defeated.

There is some doubt as to whether enabling legislation for inclusionary ordinances is needed. Many believe that authority already exists in the State Constitution and Planning and Zoning Law. Only future court or legislative action can rectify the current debate. Either of two bills now in the assembly would grant local governments the authority to pass inclusionary ordinances. The bills are AB 1562 (Wornum) and AB 848 (Kapiloff).

COMMENTS

There is too little experience with inclusionary ordinances to determine their effectiveness. However, preliminary experience in the City of Los Angeles indicates that the ordinance is essentially viable. A full report will be made in Fall, 1977, to the Los Angeles City Council, along with recommendations for changes in the ordinance.

The Potomac Institute conducted an exhaustive study of inzoning and concluded that the following three characteristics are necessary for any inclusionary land use program.

1. The program must assure that sufficient suitable land is available to meet a community's housing goals.

2. The program must not impose restrictions that raise housing prices beyond the means of low- and moderate-income families. Large-lot zoning (the most common exclusionary device) directly raises housing costs by inducing the construction of large homes. In addition, large lots mean more miles of sewer and water lines and roads, and more dispersed fire, police and education services, all of which are reflected in increased property taxes.

3. The inclusionary program should be publicized so that developers and the public know that the city is responsive to low- and moderate-income housing developments.

PROGRAM 21

TITLE

Reduction of Red Tape

DESCRIPTION

There are a combination of steps generally required by jurisdictions prior to giving final approval for construction of new dwelling units, and a variety of fees associated with them.These may include building permits, sewer and utility connections, zoning and variances, etc. These steps increase both the cost and the time needed to construct new housing. While the magnitude of the problem certainly varies among jurisdictions in the region, most jurisdictions have processing steps which could be simplified or eliminated either in return for special concessions or price reductions from developers.

In addition, there are federal and state requirements, such as environmental impact reports, which increase time and expense and therefore cost to the consumer. In many cases parts of these requirements can be supplied by local agencies more efficiently and cost effectively than by private developers. In other cases, adequate completion of local plans can eliminate the need for certain processing and review requirements.

LEGISLATIVE AUTHORITY

Most jurisdictions have considerable discretion to make the administrative changes necessary to eliminate selected items of red tape. This discretion results from local policing and regulatory authority.

PRECONDITION FOR USE

Studies should identify specific sections that have the potential to effectively reduce red tape. These studies should include information from local builders/developers regarding the impact of local red tape on cost of new construction.

COMMENTS

Most actions aimed at improving the decision making process of government or any agency will usually result in increased efficiency and sometimes greater productivity.

The basic thrust of Red Tape Reduction should be to reduce the cost of housing by reducing the amount of money and time required to complete a project.

Possible Actions to Reduce Processing Time and Costs

1. Allow concurrent filing and processing of zone change requests and tentative tract maps. Orange County's Cost of Housing Study shows potential reduction from 37 to 20 weeks, given certain direct actions to cut red tape. With sales price of housing estimated to increase at about 1.1% per month for each month of delay, the potential savings is clear. The result of such savings is to keep a certain percentage of households within the new housing market who would otherwise be priced out of the market.

2. Perhaps one of the most direct and easy-to-implement actions is to establish a position of development coordinator. The holder of this position would expedite projects for low- and moderate-income families on a priority basis, and generally expedite housing projects.

3. The preparation of master EIR's/EIS's for parts of, or even entire jurisdictions (depending on amount and type of development expected). Or, juris dictions may wish to consider public agency preparation of EIR's for projects meeting high priority local needs.

4. Priority processing for all projects containing units for low/moderate-income, elderly, or handicapped households. Also, fees normally associated with such projects could be waived.

5. Setting time limits on the review process would take much of the current uncertainty out of the development process. This action would not compromise the review process, but rather make it more predictable.

PROGRAM 22

TITLE

Speculation Control

DESCRIPTION

Speculation control practices are essentially taxes directed at short-term buying and selling of property. Such taxes are meant to discourage the short-term acquisition of real estate for purely speculative ends.

LEGISLATIVE AUTHORITY

There is no legislative authority for implementing a speculation-control tax increase. Enabling state legislature would be required.

PRECONDITION FOR USE

Such a program must be statewide to achieve the desired effect. Consideration could be given to implementation at the regional level, but certainly not at the county or city level.

COMMENTS

Speculation control taxes are found in several Commonwealth Countries. Vermont is the only state in the nation to have a speculation control tax (the "Vermont Land Gains Tax"). This tax was aimed at keeping out-of-state investors from speculating in land.

Two anti-speculation bills were introduced in the California Legislature, one in 1972 and another in 1974.* Neither passed. Other states (notably Washington, Oregon, Montana, and Virginia) and the District of Columbia have considered land development taxes, but none have been achieved. All of these proposals were very similar to the Vermont law.

The experience in Ontario, Canada, is perhaps most revealing in terms of providing insight into the dynamics of speculation-control mechanisms. Information on the first few years of the Ontario experience shows that the speculation-control tax had the initial effect of depressing sales and increasing listings for sale. However, by the end of the first quarter of the second year of the tax, sales had returned to their pre-tax levels although listings remained usually high. Opponents of the tax claim it made a once-and-for-all reduction in the price of housing but left the upward trend of housing prices unaffected.

In Vermont, considerable political controversy continues to surround the speculation-control tax. The tax was tied to a senior citizens' property-tax-relief proposal. Consequently, two major objectives exist. One is to prevent speculation in land transactions, and the other is to use the tax to generate money for the property-tax-relief fund.

Preliminary data available on the Vermont experience indicates that the objective of slowing down or eliminating speculation is being achieved, while the companion objective is falling short of projections.

To clearly understand what kinds of transactions are usually exempted from most speculation control, the following list is provided:

1. Purchase of owner-occupied residences; or purchase of a lot intended for an owner-occupied residence.

2. Sales under the terms of a will or inheritance.

3. Distribution of shares to shareholders upon winding up or dissolving a cooperation.

4. Land held by charities for charitable purposes.

The range of maximum tax imposed on the gain from sale is from 20% in Ontario, Canada, to 100% in the most recent proposal in Great Britain.

The key point with respect to the amount of the tax is that it must be high enough to truly discourage speculation. Otherwise the tax will be discounted by the market and simply passed on to the consumer.

Specific Development Speculation Controls

One major problem associated with the provision of below market rate ownership units through inclusionary ordinances, land write-downs, fee reductions, etc. is the potential for the owner to resell at the market value, thus losing the availability of the unit to moderate income househoulds. Controls can be instituted specifically for the below market priced units that maintain their moderate income character.

The Palo Alto example describes the most successful current California program. The City of Palo Alto has a 10% inclusionary provision for all development. When the homes are ready to be marketed, a non-profit corporation (the Palo Alto Housing Corp., funded by the city) qualifies and selects the buyers, who must be low- or moderate-income households, but be able to afford the mortgage payments. Then each deed for the below market unit is restricted such that the city has a right of first refusal at a specified price should the owner decide to resell. The specified price allows for annual increases equal to the consumer price index increase plus the value of any improvements or additions to the property. The program has been successfully applied to several developments within the city and has avoided speculation in all cases.

TITLE

Rent Stabilization

DESCRIPTION

Rent stabilization programs are of two basic historical types: first- and second-generation. First-generation controls were imposed during World War I to protect servicemen and their families from unwarranted eviction and rent profiteering. Later, various boards and agencies were set up to implement and expand rent controls on federal, state, and local levels. First-generation controls generally freeze rents, and have their roots in emergency conditions.

Second-generation stabilizations came about after 1960, in times of rapid peacetime inflation. In most cases, these programs set allowable rates of return on investment and usually exempt new construction. Basically, these later stabilization programs differ from the first generation controls in that second-generation stabilizations seek to regulate the amount of increase rather than hold rent levels constant. Second generation stablizations allow owners to raise rents enough to accommodate increases in operating costs, taxes, and capital improvements.

LEGISLATIVE AUTHORITY

Rent stabilization is within a local jurisdiction's policy and regulatory powers. The California Supreme Court established this in Birkenfeld vs. City of Berkeley. This judicial finding resulted in the introduction of legislation at the state level to preempt local authority in all landlord-tenant relationships (AB 933). The status of this legislation is still pending and current indications are that there will be no resolution until 1978. Similar legislation, AB 3788, was passed last year but vetoed by the Governor.

COMMENTS

No jurisdiction in the state currently operates a rent-stabilization program. The City of Berkeley established a rent-stabilization ordinance by initiative in 1972, but it was later invalidated by the State Supreme Court (Birkenfeld vs. City of Berkeley).

Nevertheless, there is considerable interest in the subject of rent stablization at this time. A Los Angeles City Council Committee has recently held a series of hearings on a motion to establish an ordinance that would outlaw "rent gouging".

A Santa Monica citizens' group intends to circulate an initiative petition to place the question of rent stablization on the ballot in early 1978.

Other jurisdictions in California have groups trying to establish rent stablization ordinances:

- <u>San Diego Committee for Fair Rents</u> - Working on initiative for June '78 ballot.

- <u>Santa Barbara Rent Control Alliance</u> - Has already qualified enough signatures for June '78 ballot.

- <u>San Francisco Fair Rent Committee</u> - Preparing initiative petition.

- <u>Santa Cruz County</u> - Considering rent stabilization alternatives.

In other parts of the nation, about 110 communities now have one variety or another of modern rent regulation. Enabling legislation has been passed in eight states and the District of Columbia. Enabling legislation does not appear to be a necessary prerequisite for establishing rent-control ordinances. In California, the Supreme Court has ruled that local jurisdictions may establish rent-control ordinances as a function of their police power. The following states have rent-stabilization legislation in effect:

- Alaska
- Connecticut
- Maine
- Maryland
- Massachusetts
- New York

Local jurisdictions which have enacted rent-stabilization measures without benefit of state model legislation are:

- Miami Beach, Florida
- Washington, D.C.
- New Jersey - Ninety-Seven Local Communities

A common factor among all ordinances is that either the legislature has declared that a housing emergency exists or provides that once the vacancy rate falls below an established figure a housing emergency condition exists.

Controversy over rent regulation perhaps centers around its primary thrust as social legislation concerned with questions of equity. Several arguments usually advanced in opposition to rent stabilization are:

1. It reduces new apartment construction;

2. It discourages property maintenance;

3. It weakens the local tax base;

4. It generates bureaucracy.

These basic arguments can be found in several documents.*

However, much of the literature on the subject disagrees. In answer to the contention that rent stablization weakens the local tax base, the California Department of Housing and Community Development Study examined data from cities in Massachusetts, Florida, and New Jersey. It found that property values and assessments had appreciated significantly in all cases except a few in the state of New Jersey. The same study refutes other contentions alleging negative community impacts from rent stablization.

The literature aside, it is clear that local debate on the issue will escalate over the near term as hearings are held on the subject and political decisions are made.

Several points should be kept in mind. First of all, rent stablization is meant to be a short-term program. Its purpose is to correct the market effects of a situation where rental units are in short supply at a time of high demand. This situation drives rents up. Those who can afford the costs manage to survive, while those who cannot, typically fixed-income households, are forced out into lesser accommodations. Once the number of rental units available increases to an acceptable figure, say the 5% guideline used by H.U.D., then controls should be lifted.

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* The Urban Housing Dilemma: The Dynamics of New York City's Rent Controlled Housing - George Steinlieb, New York Housing and Development Administration

Rent Control in North America and Four European Countries, the Potomac Institute (Joel Brenner and Herbert Franklin), Washington, D.C.

Rent Control - Concepts, Realities and Mechanisms, Center for Urban Policy Research, Monica Lett, Rutgers University.

Validity of AB 3788 and the Economic Impact of Rent Control, California State Dept. of Housing and Community Development, September, 1976

Second, any rent stablization mechanism should allow for pass-through of legitimate cost increases -- property taxes, maintenance, and incentives for capital improvements --and should exempt all new construction. This form of modern rent stablization has been enacted in Massachusetts, New Jersey, Florida, and the District of Columbia. Further, it is the type of rent regulation which the California State Supreme Court has ruled must be enacted to guarantee due process and fairness to property owners.*

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*See Birkenfeld vs. City of Berkeley 17 Cal 3d 129 (1976)

TITLE

Occupancy Ordinances

DESCRIPTION

The occupancy ordinance ensures that residential health and safety violations are not passed on from one owner or tenant to another, and that units meet local standards for health and safety. Units must be inspected and certified before they can be rented or sold.

LEGISLATIVE AUTHORITY

The authority to establish occupancy ordinances rests in the basic police powers of incorporated jurisdictions to insure the health and welfare of the community.

PRECONDITION FOR USE

Essential to the successful implementation of an occupancy ordinance is a large enough building-department staff to provide effective enforcement.

COMMENTS

The city of Pasadena is the only jurisdiction in the region known to have an occupancy ordinance. This ordinance was established in July 1973, subsequently challenged in Superior Court and sustained.

Pasadena's experience to date reveals that a staff of about 10 persons (6-7 inspectors) has been sufficient to implement the program. Rough estimates are that at least half the personnel cost is being paid by the inspection program.

A compliance rate of about 85% is reported in single-family housing occupancy inspections. However, similar success has not been achieved with multi-family units.

TITLE

Growth Management

DESCRIPTION

Growth management refers to techniques that attempt to time, shape, limit, and sometimes even halt population expansion. They run the gamut from traditional zoning practices to sophisticated schemes for staging development in step with the jurisdiction's capacity to provide essential services for health, safety, and welfare.

LEGISLATIVE AUTHORITY

The policing and regulatory powers of local jurisdictions are the basic authority for most growth-management practices. However, this is supplemented by other legislation directed at specific land-use objectives -- i.e., the Williamson Act and the California Coastal Zone Management Act.

COMMENTS

The State of California Office of Planning and Research has recently published a document titled "Growth Management Practices in California". The findings of that report express concerns which SCAG shares. They are presented below.

1. Local government leaders are becoming increasingly aware that unmanaged urban growth can provoke a variety of different problems. These problems vary according to the local setting, but the most common difficulties in California appear to be an inability to provide adequate levels of services to meet new demands and the degradation of environmental or aesthetic qualities of the community or its surroundings.

2. A wide assortment of existing techniques can be legally employed by a local jurisdiction to advance its growth-management objectives. These techniques range from expenditures and taxation policies to planning and regulatory powers.

3. Local government leaders have shown increasing interest in more innovative kinds of growth-management techniques. These include:

   a. Short-term limits on the volume of residential construction;

   b. Periodic competitive comparison and evaluation of proposed subdivisions to select those which may be approved.

c. Geographic limits around urbanized areas to define where staged or sequenced urban development may be located.

d. Fees and exactions from new developments to cover costs of public improvements.

e. Requirements for a mix of uses, amenities, prices or densities in new developments within specific areas of a jurisdiction or over a particular period of time.

4. The trend in both federal and California courts has been to give local government wide discretion in controlling growth, although courts in other states have been less supportive of local growth management. Nationwide, the most successful legal challenges of growth management techniques have been against those which had the effect of excluding racial or ethnic groups or people of low and moderate incomes.

5. Local growth management techniques may provide only a physical "solution" to complex problems, and may create effects inconsistent with other local needs or objectives. Or local practices may burden neighboring areas with the spillover effects of displaced development pressure. Spillover effects may intensify urban sprawl, conflict with regional environmental goals, or aggravate a shortage of low- and moderate-income housing at local or regional levels.

6. These adverse side-effects of growth management have led to a growing support among local governments and their citizens for a more effective role for councils of government and/or LAFCOs in development of local growth management systems. In addition, recent court decisions emphasize the need for legislative action at the level of government which is most appropriate to provide solutions for issues of a long-term or statewide and regional nature.

    The cities of Petaluma and Davis, California have established growth management programs which allow only a specified number of building permits to be issued each year. Priority consideration is given to those development proposals which include low-moderate income units. Thus, jurisdictions which must restrict growth because of environmental or inadequate service capacity reasons, or other factors, may actually use these growth control measures as a way of encouraging low- and moderate-income housing development.

PROGRAM 26

TITLE

Local Housing Elements

DESCRIPTION

The General Plan Housing Element is the key policy document regarding housing plans and programs in local jurisdictions.

Although new regulations are anticipated from the state level, existing guidelines require that local jurisdictions determine housing needs, constraints and opportunities to meet needs and to develop programs, strategies and objectives relative to housing problems.

LEGISLATIVE AUTHORITY

California Health and Safety Code, Section 65302

COMMENTS

Notwithstanding any forthcoming changes in technical requirements for local housing elements, it stands to reason that they must continue to provide a basic policy framework for developing specific programs to address needs.

Moreover, housing elements and land-use elements must be coordinated and internally consistent relative to policy objectives, especially with respect to housing opportunities for low- and moderate-income households.

The pivotal role of the local housing element again becomes apparent in the case of Community Development Block Grant programming, and the development of Housing Assistance Plans. In sum, the local housing element must be consistent with and supportive of all these vital parts of an overall housing strategy.

TITLE

Cooperative Housing

DESCRIPTION

A form of housing ownership by which individuals purchase "shares" of a corporate entity that owns a residential development.

COMMENTS

If tied to the Section 8 rent-subsidy program, the cooperative concept can be a viable home ownership alternative for low- and moderate-income persons unable to meet the traditional financial requirements of the conventional home ownership market. This is true for several reasons: 1) the cost of purchasing a cooperative living unit is less than that of a single-family dwelling or condominium, 2) Section 8 tenants may apply their monthly Section rental payments toward the purchase of shares, and 3) increases in property taxes or maintenance costs may be passed through to the Section 8 program.

Individuals may finance the purchase of cooperative units in one of three ways: 1) through the use of conventional home loans, 2) federally insured loans 3) or if they are low income, through the Section 8 program.

Additionally, families who participate in cooperative housing ownership often use the cooperative organization to form co-op childcare facilities, co-op buyers club, etc.

Cooperatives often include within their charter and deed provisions restrictions regarding conversion to other forms of ownership (i.e., sale of total development for rental; condominium conversion). Because of such restrictions it is possible to create a corporation which through its structure insures the provisions of homeownership for moderate- and low-income households. As an example: The City of Los Angeles Housing Authority, utilizing SCAG Section 8 "Bonus Funds", is in the process of developing cooperative housing -- preliminary approval has been granted by the Los Angeles Area Office of HUD. It is thought to be the very first Section 8 Cooperative development in the nation. In this case, the Los Angeles City Housing Authority will act as both corporation and management agent. Section 8 tenants will build equity through purchase of shares through their monthly Section 8 rental payments. In order to assure retention of the project for moderate- and low-income Section 8 families and prohibit speculation, the corporation will require that an individual selling during the first three years of occupancy solely sell to the corporation at a price equivalent to the worth of stock as determined by the corporation. During the fourth and fifth year of occupancy an owner wishing to sell must give "right-of-refusal - first option" to the corporation. It is assured that after the fifth consecutive year of occupancy speculation is nil. Thus through this program (combined Section 8 - Cooperative Development) Los Angeles City Housing Authority intends to sell ownership shares for an initial down payment of $300.00 (payable over two years) and Section 8 rental limits equivalent to monthly payments not exceeding 25% of the family's total gross income. This development will be restricted to families which qualify for Section 8 assistance payments. The initial cooperative developments will include a total of 70 three-bedroom units.

Administrative Variations for Housing Production

Community Development Commission (CDC)

Under Health and Safety Code Section 34100 et seq., communities may combine the powers and administration of both the Housing Authority (HA) and Redevelopment Agency (RA). The advantages of CDC are numerous. By using a CDC, a community could implement a comprehensive housing and community development including inclusionary ordinances, land banking, finance and development programs, etc. In addition, CDC's can be made more responsible to local governing bodies than RA's and HA's, which have frequently operated semi-independently of the community. In designing a local housing element, the CDC's direct relationship to the community is extremely important. Finally, the cost of administering the various progrms can be reduced by eliminating duplication.

Since housing problems are frequently regional in nature, solutions may well require a regional approach. Communities can, by common consent, merge their housing authorities, redevelopment authorities, and CDC's into regional agencies which can address regional needs on a regional basis. Such a regional CDC (or HA or RA) could act in conjunction with an Area Housing Council (see below). Particularly in smaller communities, the regional approach could result in significant administrative savings.

Area Housing Councils

Under the Area Housing Council Law (Health and Safety Code Section 7850 et. seq.) any city or county may enter into an agreement with any other city or county to form a council to carry out areawide planning. The area housing council may impose a surcharge on all building permits issued by the members, up to a maximum of .1% of the construction costs. When a community adopts the regional plan as its own housing element, it receives one half of its proportionate share of these revenues. Thus the Area Housing Council can provide a substantial source of funds for implementing a housing element. In addition, since the Area Housing Council must develop an Area Housing Element, localities can save planning expenses by utilizing the Area Housing Council Plan as its housing element. With few changes, the element could also serve as the Housing Assistance Plan required by the Community Development Block Grant Applications. Also, the Area Housing Council could serve as the focal point for a comprehensive plan which would relate housing to other regional concerns such as transportation, employment, and educational and service facilities.